

10/9/15 Meeting with Joseph Shumofsky (USDA), Mr. Gregg (USPIS) and Mr. Botti (FBI)

On the phone: Zach Intrater

Shumofsky presented a Copy of report. Showed Exhibits a – m. Make sure there is nothing missing. He said that they reviewed the report before they came.

Shumofsky: How did Tate George find you? Tate found Joe via internet, e-mail. Not referred by anyone. First connection was Mr. Azzarello.

Directions came from who?

Joe: It was unclear in the beginning what was supposed to be done. Initially thought full forensic accounting. Given the budget they were offering; and the guidance of the issues were. Just looked at the charts for the five people that testified in court.

Who gave the directions? Tate and what was specific of the judges order (copy of signed order).

What did Tate say?

How did you know which way to go?

Guidance from Tate on what he thought the issues were. This is the big issue and what does this prove? He said the big issue was that the charts do not prove anything because he did not take out more than his proforma.

Did you ask for certain information? Initially sent over 3 or 4 boxes of information. Had most of the information in the boxes. Asked for info from the accountant and the attorney, as well as John Abramo.

Who told you about John Abramo? Projects were in a bunch of the information so we looked at who we could contact.

Who explained who was invested in the projects?

Joe was trying to prove that this was a business. If this is an actual business he is running the operation. How did Tate explain this to you? Joe decided to prove that this was a legitimate business. If you are taking in funds and you are legitimate there is a completely different threshold. Is this bad business? Or is this illegal? Started doing internet searches, found Tate's name all over the internet involved in all of these projects. Looking at what is out there in the universe of information.

Were any of these projects actually finished to prove that they were legitimate? West Ward which is why Abramo was contacted. Tate did mention his name a few times.

Was there a point of contact person? Was it Tate? Was it someone else?

John A. was involved but Tate was making the decisions. John gave certain things he should consider. Between John and Tate that is the direction that was taken.

How often did you speak with Tate? Not that often. Once approved; we went down to visit him. Which was a wasted visit. He wasn't allowed to interact with us.

How many times did you meet with Tate? 3 times.

What happened during that meeting? We wanted to understand the flow of things and how things work. Understand the business. Show me what you did and how you got from here to there.

Seeking how the real estate process works? How Tate's process works.

How does Tate's business work vs. the parameters of real estate development? Small business, the face of this whole thing. Teams and how the money came in and went out.

Bigger real estate developers vs. Tate?

What did Tate tell you the crux of the issue was? We had access to the presentencing report. We had to look at what was put in there, looking through the documents and deciding what the issues were to put it together.

What did he say where he needed help? He kept saying the charts prove nothing. Show them that it does not prove anything. Joe looked at the charts and saw right away that the charts proved nothing. The charts are a snap shot of time. Joe could not believe that this was all that was used to convict the guy. What is the bigger picture stuff? Joe says is this a legitimate business? Maybe he pre-spent the money. Those charts tell you nothing. We are not going back to do a full forensic accounting. We kept this to what do these charts prove?

Did you look at the transcripts? No; there is no budget for that. Joe kept saying he needs more money to review more documents and do more work.

Say \$100,000 comes in. Did you ask how he spent that money?

Shumofsky: I can't agree with this chart or disagree with this chart unless seeing the full picture. Joe says that there is no way just looking at the charts proves anything. Shumofsky makes the argument that Joe did not look at the pre-project statements, etc. Joe makes the argument that Tate spends a lot of time and money developing these projects. Could be considered back salary even. There may be contractual limitations. Nothing in the notes that says he could not take the money.

Gov Exhibit 3 – pool of money.

Shumofsky: I gave you \$50 to do an audit. And then you don't do the audit. Is that stealing?

Joe says money comes in and goes out. There is a big difference between bad business and fraud.

Shumofsky: Was there a time you asked Tate for any additional background? The presentencing report was read to get an idea of why there was a conviction. Again; the scope was to just look at the charts, and review the 5 trial witnesses. With a reasonable degree of accounting certainty Joe can say that the charts don't prove anything.



How did you come up with the 5 people? Tate.

Did you ever see the charts for Ralph Ramsay and Duane Taylor? No.

Who identified what projects they were attached to? Some of them were in the agreements. We only saw the agreements for the five people that we were asked to review.

Did Tate ever explain why some investors money did not get used for the project that they initially invested in? Yes; he said that investors had the option to roll their investment into another project.

Developer Fees outstrip the \$114k. How did you come up with that it was ok to group all the project developer fees together? Money is fungible. Shumofsky says: There is no ear mark that says this money is used for this developer fees. You still need to look at this as a whole; not a piece.

Who told you that they were in more than one project? Joe says Tate is the business owner; and he may say something and you have to disprove it. Who knows better than the business owner? Shumofsky says: Did Tate tell you that? Did you see something? Gives an example: If I come in and you say it's going to cost me \$500 to file your tax return and then my tax return doesn't get filed. I am asking what happened? That is how the government is looking at it. The government says he is entitled to commissions on Project A, not as a whole. Did someone say that these people agreed that he could take the developer fees at any time? On any project?

*This makes  
no sense*

Shumofsky: These are promissory notes based on specific projects. I go on the following facts. People would go into projects and if the project didn't pan out then he would put them in the next project for X amount of dollars instead. That is Joe's understanding. Saw one escrow release. Escrow accounts cannot be touched. You need the authority to release it. Did you ever discuss the escrow accounts? No.

Duane Taylor Release – invested in Chicago Deal. Show money in escrow. Tate said rolled over to the other deal. If this is other money; then it should not be said it is in escrow. Why is there an escrow release? Joe says do the notes say they go into escrow? Shumofsky says lets say it doesn't; and then Tate says he needs them to sign an escrow release. Escrow means held safe. Joe says that the release says it is in escrow

Assumption Brevin gives \$300k. How do you reconcile the money spent and the money in escrow? Joe says it would be interesting and would want more information. Only saw one release? Joe says yes that is correct.

How do you get the understanding that he was allowed to take the money at any time? I am taking Tate's word. Tate said at trial that all the witnesses testified that they could all take his money at any time. Shumofsky: That is a lie; and he is not surprised Tate lied to you.

Did you talk to John Abramo about developer fees? How does it work? There are still legal parameters and ethics. There is nothing in the contract that talks about a developer fees. Tate gave me the proforma's he told me they are correct. Shumofsky said a proforma is an estimate. Joe says some things are for sure. The developer fee is the developer fee. Shumofsky has spoke to people in the real estate

*Need to  
explain to  
Judge*

industry and his understanding is that you need a construction loan to set forth the developer fees (terms and conditions of developer fees – sometimes at the end sometimes as you go). Joe agrees that is the general way it goes. EX : Prospect St. Get investors, go to the bank, get the money. Instead you take the money and spend the money on yourself. Based on what Tate said he can take the developer fees at any time. There was nothing that says he cannot take it any time. Shumofsky wants to know if that strikes you as odd or problematic? Joe agrees that he probably should have taken the deal after it closes. Sloppy accounting. Should have separate bank accounts. Joe says a deal is a deal. There is a vast array. What happens at different levels is different.

Gov't admits this fact  
 ↕  
 NOT A CRIME

Did Tate George ever explain to you how he explained to the developers?

Did Tate George ever show you that 2 days after the Villanueva deal he sent a letter to Charlie about reuse of funds? This is contrary to how you run your business and set up the deals. No. Joe never saw that letter.

BEC: Contract is dated 3/3/09. It says redeveloper...3/5/09 there is a letter "clearing things up." Strange that 2 days later it changes. Joe never saw any of this.

Did you inquire about the other victims? Tate said focus on the 5 trial victims. So you are in no position to say anything about them? No; I can't speak to them.

Joe: What about Trachtenberg?

Where do you get these expenditures and how they are categorized? From Tate. Did he ever tell you that he used \$10,000 to pay Marquess Braggs mortgage of NF's funds.

Braggs testified  
 MAMAR WAS  
 PAID HIS FEES

You would have no reason to discredit what Tate says? That is why we did the charts both ways; assuming all developer fees, and then breaking out expenses.

Joe said he had seen another account for West Ward.

Shumofsky: What about 376 prospect? No; there is no other account I am aware of.

What was he spending on before or afterwards? Did not look other than at the accounts for these victims, to compare the government charts.

Exhibit L & K: Where did you get your numbers for Sea View plaza? Joe says that there was a percentage applicable to Mr. George. Joe said that Tate gave him the percentage that he was entitled to for Seaview. Looking at Exhibit L: RP was the same project as LM, NF and BV. So this seems incorrect. Tate provided information. Did Tate review the report? Yes.

Gov't ⇒ Somebody is sloppy in business and run things the way he wanted to run things. — who said this?

Joe: I stand by what I said under the facts that I was told. Thought it was problematic that he danced around paying these people back.



*All the facts and truth!*

Shumofsky: Telling the people the truth is ok. Stealing and spending people's money is not. Your analysis is under the assumption of certain facts.

*Another lie*

The money was supposed to be used for X, and it was used for something else, etc. etc. The story still stays the same. 100% of the money gets spent on him and friends, and nothing gets spent on the deal.

Joe says the deal gets spent on the bank. The investor money gets spent on themselves.

*Another lie* → Shumofsky: Tate said he put \$300k of his own money in the deal. Turns out he doesn't put any of his money in the deal then he has to blow up the deal and he takes the money as "developer fees." What do you do with the developer fees? Their interest was moved. Naiima works for E.O. Housing authority. She could not be invested in Arcadian Gardens because it would be a conflict of interest. What is the bigger picture? There is no bigger picture. Joe's assessment there must have been more going on. → *report shows otherwise* exactly

Shumofsky: Did you ever think to call the government since you were analyzing their charts? He was found guilty by a 12 person jury. Did this ever seem odd. Joe: it was more along the lines that we had the presentencing report.

Did Tate ever show you his deposition and testimony? Civil suit with Brevin Knight. No. No testimony.

Shumofsky: You should have put in the report what we were missing:

Info from Chip

Under a budget to perform this analysis.

The contract does not prohibit him from taking his developer fees at any time.

*Gov't* → If the contract says 376 prospect and says you can't use it for any other properties?

Was there any other point that you asked to speak to the government? No. Budgetary issue and did not think to ask for anything additional. We had the presentencing report.

Tate didn't have someone that went through and do a forensic analysis. The report says that just looking at those charts; and Tate's guidance that was not enough to convict someone.